IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 15242 of 2005

Between:

Sk. Masthan S/o. Sattar
R/o. Atmakur (N) Nellore District.

..... PETITIONER

AND

The Deport Manager APSRTC
Atmakur (N) Nellore District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or directions, more in the nature of writ of mandamus, declaring the office order dated 19-12-2003 as illegal and arbitrary and set aside the same with all consequential benefits including arrears of pay.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondent: MR.R.MANMADHA REDDY SC FOR APSRTC

The Court at the admission stage made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the impugned major punishment imposed by the respondent.

2. According to the petitioner, the respondent initiated disciplinary proceedings on certain irregularities and issued a charge sheet dated 05-11-2003 for which an explanation was sought for. The petitioner submitted his explanation. However, the respondent, if not satisfied with the explanation of the petitioner, in stead of initiating regular departmental enquiry, passed the impugned order imposing a major punishment of deferment of annual increment for a period of one year with cumulative effect. Therefore, the petitioner assailed the said impugned order on the ground that imposition of major penalty without conducting regular departmental enquiry is illegal, and therefore, not sustainable.

3. At the time of hearing, the learned counsel for the petitioner also relied upon the judgments of this Court as well as Apex Court, where it was held that major penalty cannot be imposed, unless departmental enquiry is conducted.

4 . Heard the learned counsel for the petitioner and the learned Standing Counsel.

5. In view of the settled legal position, the imposition of major penalty without conducting regular departmental enquiry is illegal and unsustainable. Therefore, the impugned order is unsustainable. However, as the impugned order was passed on 19-12-2003, it would be appropriate to modify the order from major

penalty to one of a minor penalty.

6. Accordingly, the impugned order is modified into one of withholding of annual increment for a period of one year without cumulative effect. However, the monetary benefit to which the petitioner is entitled by virtue of the present order would be effective only from the date of the order of this Court and the petitioner is not entitled for any monetary benefit for the period prior to the date of the order of this Court.

7. Accordingly, the writ petition is disposed of. No order as to costs.

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S.ANANDA REDDY, J

14th July, 2005

SKM

Copy to:

1 The Deport Manager, APSRTC,
Atmakur (N) Nellore District.

3 Two C.D. Copies.